DOCUMENT RESUME

ED 268 056 SO 017 053

AUTHOR	Meese, Edwin, III
TITLE	The Consitituion as a Bill of Rights: Separation of Powers and Individual Liberty.
INSTITUTION	Department of Justice, Washington, D.C.
PUB DATE	27 Feb 86
NOTE	24p.; Lecture presented at the Bicentennial Program of the University of Dallas (Irving, TX, February 27, 1986).
PUB TYPE	Speeches/Conference Papers (150) -- Viewpoints (120)
EDRS PRICE	MF01/PC01 Plus Postage.
DESCRIPTORS	*Civil Liberties; *Constitutional History; Constitutional Law; Court Litigation; Government (Administrative Body); Governmental Structure; Justice; *United States History
IDENTIFIERS	Bicentennial; Madison (James); *Separation of Powers; Supreme Court; *United States Constitution

ABSTRACT

One of the basic principles of the Constitution--the separation of powers--and its contribution to the preservation and perpetuation of individual liberty is discussed. To renew public appreciation of the Constitution, our fundamental law and the philosophical foundation of our political order, is the most fitting bicentennial celebration U.S. citizens can engage in. James Madison, often called the father of the Constitution, believed that "justice is the end of government." He believed that the accumulation of all powers in the same hands was the very definition of tyranny. The solution that Madison and the others founders offered was an institutional solution. Central to their institutional scheme was the principle of separation of powers among the executive, legislative, and judicial branches of government. As Madison put it, the "preservation of liberty requires that the three great departments of power should be separate and distinct." What this means is that the Constitution does not make our liberties dependent upon the good will or the benevolence of those who wield power. Sound institutions were meant to offset the defects of human reason and virtue. (RM)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

SO

U.S. DEPARTMENT OF EDUCATION
NATIONAL INSTITUTE OF EDUCATION
EDUCATIONAL RESOURCES INFORMATION
CENTER (ERIC)
☑ This document has been reproduced as received from the person or organization originating it.
☐ Minor changes have been made to improve reproduction quality.
• Points of view or opinions stated in this document do not necessarily represent official NIE position or policy.

Department of Justice

ED268056

THE CONSTITUTION AS A BILL OF RIGHTS:

SEPARATION OF POWERS AND INDIVIDUAL LIBERTY

LECTURE BY

THE HONORABLE EDWIN MEESE III
ATTORNEY GENERAL OF THE UNITED STATES

AT THE

SP017053

BICENTENNIAL PROGRAM
OF THE
UNIVERSITY OF DALLAS

THURSDAY, FEBRUARY 27, 1986
IRVING, TEXAS

The Constitution as a Bill of Rights:
Separation of Powers and Individual Liberty

It is a real pleasure to be here with you this evening. I always look forward to the chance to visit colleges and universities such as yours. This opportunity is a special pleasure for two reasons. First, this is a program dedicated to the bicentennial celebration of the Constitution. And the most important part of our celebration is to draw the Constitution back to the attention of the general public. Too often we tend to think of the Constitution only from the standpoint of litigation, as nothing more than a lawyer's brief or a judge's opinion. But it is, of course, far more than that. The Constitution is not only our fundamental law, it is also the philosophical foundation of our political order, the basis of our very way of life. To renew public appreciation of our great charter is the most fitting celebration we could engage in. Public gatherings such as this go very far toward that worthy objective. I am honored to be a part of your very good program.

The second reason it is a special pleasure to be here with you this evening is that the University of Dallas stands apart from most institutions in its approach to the study of politics. More than almost anyone else, you have dedicated your program to the philosophic study of political life. You seek to locate the

roots of our contemporary politics in the best that has been thought, and said, and written throughout history, from Plato to Shakespeare to Locke and Burke. You have a distinguished reputation for taking politics truly seriously. I can think of few places as appropriate for the thoughts I would like to share with you this evening as the University of Dallas.

It is great to be in the Lone Star State at any time, but it is a special privilege to be here now, during the celebration of your Sesquicentennial. One hundred and fifty years ago today, the brave men of the Alamo were in the midst of a bloody and heroic fight, defending the principles in which they believed. Some of them, like Jim Bowie and Davy Crockett, were sons of men who decades before had led the American Revolution.

Each generation in its own way is called to the defense of liberty. For some, like the heroes of the Revolution and of Texas, this defense is waged with gunpowder and steel. For others, like the generation that framed and ratified the Constitution and the Bill of Rights, it is waged with the mind and the pen.

Today, because of the sacrifices made at Lexington and Yorktown, at the Alamo and San Jacinto, and at Bellea Wood, Normandy, Pork Chop Hill and Khe Shan, we are not called to defend our liberty with arms. Yet in this year when we celebrate the 150th anniversary of Texas, and begin in earnest the preparation for celebrating the Bicentennial of the Constitution, we would be remiss if we did not at least take time to revisit the basic principles of our liberty.

Today I would like to take the occasion of this Bicentennial Program lecture to discuss an animating principle of our Constitution. A principle as remarkable and indispensable in 1986 as in 1787. It is the principle of Separation of Powers.

Tonight I would like to consider how, precisely, this basic principle of separation of powers contributes to the preservation and perpetuation of individual liberty. The role this doctrine plays in limiting the reach of the national government was essential to the Founders' belief that a constitution of strictly enumerated and checked powers is, in effect, a bill of rights. This fundamental principle remains, I will argue, the foundation of our system of limited but energetic constitutional government.

The reason I chose this topic is that such basic principles have a way of often getting lost in the political shadows cast by more exotic public problems. We tend to take them so much for granted that we cease to think about them very much. We then fail to understand and appreciate our most fundamental constitutional principles. We forget how very important they are to our current and continuing political success.

I'll give you a brief example of what I mean. Last fall, I had the opportunity to speak at the American Enterprise Institute in Washington. I had chosen to address an equally fundamental constitutional principle -- federalism. As is often the case, a member of the media called to ask what the nature of my remarks would be. "Federalism," he was told. "Federalism? What's that?," he replied.

I trust you see the problem we face. Nonetheless, it's clearer every day that basic constitutional principles like federalism and separation of powers cannot be ignored. As you know, a few weeks ago a special court struck down certain provisions of the Gramm-Rudman-Hollings budget balancing law as an unconstitutional violation of the doctrine of separation of powers. Since then, I'd bet, there are quite a few more people -- at least 535 -- who are now thinking again about what separation of powers means.

Returning to fundamentals is not always easy. Nor is it always accepted as appropriate. You see, quite often fundamental constitutional principles prove to be stumbling blocks to the many groups always pushing for different policies and programs. These fundamental principles frequently rub lawyers the wrong way, too. For a due regard for the Constitution tends to get in the way of those who seek to transform that document by interpretation, those who seek, as Jefferson said, to make it a blank paper through construction. But as I said, the Constitution is and must be understood to be more than a litigator's brief or a judge's decision. Our substantive fundamental constitutional values have a shape and content that transcend the crucible of litigation.

As some of you may know, last July I had the privilege of addressing the American Bar Association. During that speech I urged a recovery of the written Constitution -- its text and original intention -- as the proper basis of constitutional law. My suggestion that we need to develop a consistent and coherent

jurisprudence of original intention has spawned a rather broadly based and vigorous public debate over the proper approach to interpreting the Constitution.

At the deepest level, a jurisprudence of original intention does two things. First, it seeks to discern the meaning of the text of the Constitution by understanding the intentions of those who framed, proposed and ratified it. The intentions of the Framers supply us with our original principles. Second, a jurisprudence of original intention is not confined to the circumstances from which those original principles sprang. Rather, those principles can be applied to new circumstances, circumstances often unforeseen by the Founders themselves. For example, the constitutional protection against unreasonable searches and seizures was fashioned before anyone had heard of electronic surveillance. Yet the new circumstances created by our technological advances are not unreasonably brought under the protection of the original principle of making people secure against unreasonable searches and seizures. This is precisely what the Supreme Court did in 1967 in Katz v. United States.

A jurisprudence of original intention seeks to explicate not simply what is old but what is basic, what is true. It is a means of accommodating the political changes wrought by time within the safe framework of fundamental principles that are permanent -- or as John Marshall described them, "unchangeable." It is a jurisprudence that takes seriously the belief that the Constitution -- our written Constitution -- means something, something that can be and must be discerned and applied to our

modern circumstances. As Walter Berns has said, the Framers' object was not to keep the Constitution in tune with the times but rather to "keep the times ... in tune with the Constitution."

Basic to the view of the Constitution embraced by a jurisprudence of original intention is an appreciation for how the three great coordinate branches of the national government have, since their creation, not only checked and balanced one another, but together have generated a deliberative politics of republican energy and seemingly perpetual political progress. The purpose of the Constitution, after all, was not just to achieve limited government -- the Founders had suffered enough of that under the weak and ineffective Articles of Confederation. Rather, the true purpose of the Constitution was to achieve good and effective, but still popular, limited government. As Louis Fischer of the Library of Congress has pointed out:

> The Constitution supplies a general structure for the three branches of government, assigns specific functions and responsibilities to each, and reserves certain rights to the people. Armed with powers of self-defense, the branches of government intersect in various patterns of cooperation and conflict. How these basic principles of law operate in practice is a question decided by experimentation, precedents, and constant adaptation and accommodation.

As we begin to celebrate our Constitution and the durable political order it spawned, we need to return to the founding period with an enthusiasm for learning. We need to look upon the Founders as more than historical curiosities and to consider their theories of politics as more than intellectual artifacts of a long gone age. We need to return to that time, read what they wrote, and recall what they said with a fresh interest.

In order to do so we first have to free ourselves of the all-too-common notion that our generation is somehow more enlightened or more theoretically sophisticated than theirs. That is not easy. But it is, as I say, necessary. We must approach that generation not with the historical conceit that they have nothing to teach us, not with the "chronological snobbery" C.S. Lewis warned against in another context, but with a mind open to the possibility that they may very well have a great deal to teach us. We should -- during the next few years especially -- endeavor to engage in a dialogue with our forefathers.

The old and hackneyed response to such a suggestion will not hold up. Why, it is asked, should we take their political insights seriously when in so many other areas their knowledge has clearly been superseded? Why listen, we often are told, to their political theories when it is clear we have come so far from, say, their scientific theories? The reason is simple enough.

Certainly, we do live in a world characterized by technological advances they did not -- indeed, that they could not -- contemplate. (Though one surely wonders about Jefferson's private flights of fancy!) Between us and them stand the likes of Albert Einstein, Alexander Graham Bell, Henry Ford -- the list seems endless. Our technological accomplishments over the past two hundred years have been awesome. But the fact is political life remains much the same. For all our technological advances, and all our sophisticated scientific analyses, the world is still plagued by wars, by tyranny, by ignorance, and by poverty. And, still, freedom is too often the exception rather than the rule throughout much of the world. Yet we, we Americans, have endured in both comfort and freedom. Our system has proved different. Our Constitution remains, as Abraham Lincoln once said, the last best hope of earth. Often imitated, never completely equaled, our Constitution is unique. By returning to our roots, by engaging in a dialogue with the best minds of that generation, we can learn why we have succeeded -- and, I submit, how we may most successfully perpetuate our political institutions. So, if you would, please join with me this evening so we can explore together one of the fundamental principles of our Constitution.

But before we return to the Founders, I would just like to survey briefly where the doctrine of separation of powers stands today, as a matter of constitutional law. For even though the Constitution is more than simply constitutional law, the opinions and decisions of the Supreme Court often provide clear glimpses into the inherent theory of the Constitution itself. It is

especially instructive to survey this body of case law because it seems clear that we are entering a new era of judicial respect for the necessity of separated powers of governance.

Until only a little more than fifty years ago, the idea of separation of powers seemed pretty clear. As I said, the Constitution's first three articles establish the three coordinate branches of our national government. And each of those articles in turn carefully enumerates what is to be the business of each branch. Indeed, the need to establish clear limits to governmental power was the primary impetus toward a written Constitution of clearly defined powers in the first place.

Then, about half a century ago, as this nation sought to extricate itself from the social and political morass of the Great Depression, attention turned to the increasingly important role regulatory agencies were beginning to play in our national political life. What was their proper status, some began to ask. Are they legislative institutions? Or executive? Or judicial? As is usually the case, these questions pertaining to the constitutional ambiguity of these agencies were brought before the Court. In Humphrey's Executor v. United States (1936), a case involving President Roosevelt's effort to remove William Humphrey, a Hoover appointee, from his position as a member of the Federal Trade Commission, the Court offered an answer. And the answer the Court gave spawned a radically new view of separation of powers.

A decade before, the Supreme Court in the case of Myers v. United States (1926) had held that the removal authority of the President was broad. In Myers' case -- Frank Myers was a postmaster in Oregon -- the Court had held that the President's power to remove him could not be hamstrung by a statute requiring the concurrence of the Senate. But in Humphreys, the Court distinguished agencies such as the FTC from departments such as the Post Office. The holding posited the notion that these agencies are not purely executive in their essential functions. As a result, Congress could, by statute, restrict the President's power to remove those in the independent agencies in order to preserve their independence.

The result of this famous case was, in effect, to create a new and politically unaccountable "fourth branch" of the national government. Such independent regulatory agencies were held to be "quasi-legislative" and "quasi-judicial" and thus not, strictly speaking, a part of the executive branch.

Whatever one may think about Humphreys, it has stood as controlling law since 1936. The logical flaws and constitutional shortcomings some find in the decision have been glossed over in the name of securing a powerful regulatory function for the national government. Such logic, reflecting as it does the early twentieth century confidence that politics and administration can be clearly and completely separated, falls short by its failure to appreciate the fact that any institution that wields governmental power is inherently political. In that early quest to shield administration from the often strong gusts of partisan

politics, those reformers -- and the Court in Humphreys -- created what some have called a sanctuary for bureaucratic domination.

But even though Humphreys remains as controlling law, things are beginning to change. One commentator has even recently observed in the Yale Law Journal that "the foundations of Humphrey's Executor are crumbling." Indeed, it was suggested that "the distinctive expertise and impartiality of independent agencies appear much less compelling in light of a half-century of experience."

The questions about the foundation of the Humphreys case are not simply appearing in scholarly journals. The courts, too, are beginning to rethink what the theory of separation of powers demands in practice. A little over a decade ago, for example, the Supreme Court, in Buckley v. Valeo (1975) held unconstitutional the appointment procedure Congress had enacted as part of the independent Federal Election Commission. In giving itself a share in the nomination of the commissioners (Congress had given itself power to appoint four of the six voting commissioners) Congress had, the Court said, arrogated unto itself a power essentially executive under the Constitution. Such a blurring of the Constitutional separation of powers was not allowed.

We now know that Buckley was not an isolated juridical quirk. Only three years ago in a truly landmark case, INS v. Chadha (1983), the Court struck down the so-called legislative veto. The idea that the Congress could veto regulations of

agencies as a justification for broad delegations of legislative powers, violated the Constitution's demand of separated powers. The Constitution, the Court in effect held, allows no legislative shortcuts over the sturdy walls of separation erected by the Framers.

That the doctrine of separation of powers is alive today was made clear in the reasoning of the Court that recently invalidated portions of the Gramm-Rudman-Hollings act. As you know, one of the provisions of that act delegated power to the Comptroller General to order the President to make certain budget cuts. In a nutshell the Court held that "since the powers conferred upon the Comptroller General as part of the automatic deficit reduction process are executive powers ... [they] cannot constitutionally be exercised by an officer removable by Congress."

Now, as you know, that opinion is on appeal. And since it is a case in which the Department is involved, I cannot comment further upon it. But one thing about the lower court decision that is appropriate to our discussion this evening is the character of the opinion. Looking back to the Framers, the Court considered the importance of original principle and not simply the weight of judicial precedents in supporting its decision. As the three judges summed it up: "The balance of separated powers established by the Constitution consists ... of a series of technical provisions that are more important to liberty than superficially appears, and whose observance cannot be approved or rejected by the courts as the times seem to require."

Edward Gibbon observed in his Decline and Fall of the Roman Empire that "the principles of a free constitution are irrecoverably lost when the legislative power is nominated by the executive." To this wisdom we Americans have added the belief that free constitutions are as easily lost when the executive power is dominated by the legislature. Expediency is never an excuse.

With this emerging jurisprudential view that separation of powers truly matters as a means to constitutional liberty, we find ourselves, I suggest, more obligated than we have been for fifty some-odd years to recover the theoretical underpinnings of our Constitution's provisions for separation of powers.

One of the best ways to undertake such a recovery is to open ourselves to the Founders' teachings. For in this area of constitutional concern as in so many others, our political problems are not in principle different from the ones the Founders faced. Though the problems may come to us in new and novel guises, at bottom they are pretty much the same. And the Founders' thinking can serve us well as a theoretical beacon as we pass through churning political waters similar to those they successfully navigated so long ago.

Of all the Founders, I think none has ever understood the Constitution better than the man often called its father, James Madison. His academic preparations for the Constitutional Convention are legendary. His role in Philadelphia as a spokesman for the nationalists and as the leading theoretician of republican government was unmatched. His great public service in

transcribing for posterity the work of the Great Convention remains a shining example of a statesman with a sense of history. It is hard to imagine where we would be -- or if we would be -- had he not lived during that great moment of our national birth.

Madison was blessed with the happy combination of philosophical sophistication and old fashion political savvy. To use his word, he was no "closet" theorist. He knew what to say, when to say it -- and most important, how to say it. His contributions in The Federalist to the struggle for ratification remain masterpieces of American political thought and rhetoric. He understood that often the simpler the language the more powerful the argument.

Thus, he put it simply. "Justice," he said, "is the end of government. It is the end of civil society. It ever has been, and ever will be pursued, until it be obtained, or until liberty be lost in the pursuit."

Madison did not, of course, think liberty would be lost. He knew the Constitution was capable of securing justice and preserving liberty.

But what, precisely, did Madison envision? How was this Constitution he had helped design to effect that happy union of liberty and justice for all?

The political secret, he thought, lay in the institutional design the Constitution created. By "contriving the interior structure of the government" in a particular way, he argued, "its several constituent parts may, by their mutual relations, be the means of keeping each other in their proper places." As Madison

knew, there had never been a government that was inclined to do too little. There would always be a tendency for government to do too much. Power, he said, ever had been and always would be of an encroaching nature.

With characteristic clarity, Madison summed up the problem this way:

> The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.

The solution Madison and his brethren offered was an institutional solution. It was a science of politics that sought to erect hurdles to the various passions and interests that are found in human nature.

The particulars of the Framers' science of politics were best catalogued by Madison's celebrated collaborator in The Federalist, Alexander Hamilton. Those particulars included such devices as representation, bicameralism, independent courts of law, and the "regular distribution of powers into distinct departments." As Hamilton put it, these were "means, and powerful means, by which the excellencies of republican government may be retained and its imperfections lessened or avoided."

Central to their institutional scheme was the principle of separation of powers. As Madison bluntly put it, the "preservation of liberty requires that the three great departments of power should be separate and distinct."

Madison's famous reason for this structural device of separated powers and how it was to be maintained in practice merits a full hearing. He wrote:

> [T]he great security against a gradual concentration of the several powers in the same department, consists in giving to those who administer each department, the necessary constitutional means, and personal motives, to resist encroachments of the others.

Madison concluded:

> In framing a government which is to be administered by men over men, the great difficulty lies in this: You must first enable the government to controul the governed; and in the next place oblige it to controul itself. A dependence on the people is no doubt the primary controul on the government; but experience has taught mankind the necessity of auxiliary precautions.

These "auxiliary precautions" constitute the improved science of politics offered by the Framers as their "Republican remedy for the diseases most incident to Republican Government."

The "diseases most incident to Republican Government" were basically two. First, democratic tyranny. Second, democratic ineptitude. The first was the problem of majority faction, the abuse of minority or individual rights by an "interested and overbearing" majority. The second was the problem of making a democratic form of government efficient and effective.

The goal was limited but energetic government. The constitutional object was, as the late constitutional scholar Herbert Storing said, "a design of government with the powers to act and a structure to make it act wisely and responsibly."

Thus, the idea of separation of powers along with the idea of federalism constituted for the Framers the principled matrix of American constitutionalism. This is what Madison meant when he said that under the structures of the Constitution "a double security arises to the rights of the people. The different governments will controul each other; at the same time that each will be controuled by itself."

What this means, in the simplest possible terms, is that the Constitution does not make our liberties dependent upon the good will or the benevolence of those who wield power. The Constitution's Framers did not mistakenly assume that this nation was to be governed by that "philosophical race of kings wished for by Plato." No, they knew, as Hamilton said in The Federalist, No. 6, that they were "yet remote from the happy empire of perfect wisdom and perfect virtue." Sound institutions were thus meant to offset the defects of human reason and virtue.

Recognizing that human nature was marred by man's "fallible" reason and the influence upon that reason by his passions and his interests, the Framers sought to construct institutions that would "refine and enlarge" public opinion. These institutional contrivances -- representation, a bicameral legislature, an independent judiciary, and an energetic executive -- would serve (in Madison's words) as "successive filtrations" through which popular opinion would be forced to pass before being translated into public law and policy. The purpose was not to thwart popular will but only to slow down popular passions and give the people "time and opportunity for more cool and sedate reflection."

By hedging against this natural tendency of popular institutions "to yield to the impulse of sudden and violent passions, and to be seduced by factious leaders into intemperate and pernicious resolutions," the Constitution seeks to check popular passions and elevate public reason. As Madison put it, "it is the reason of the public alone that ought to controul and regulate the government. The passions ought to be controuled and regulated by the government."

The primary focus of the Framers' concern was, as everyone knows, the legislative power. History proved to their satisfaction that a legislative department generally had a tendency, as Madison put it, to extend the "sphere of its activity" and to draw "all power into its impetuous vortex."

Saying it should not usurp the other powers of governance was not good enough. "Parchment barriers," the Framers knew, would never be a match for power.

In order to check legislative power, the other, naturally weaker powers -- the executive and the judicial -- had to be bolstered. The secret was to give each institution "a constitutional controul over the others." Only in this way could the theory of separation of powers be maintained in practice.

Let me return for a moment to the obvious concern, the basic concern that shaped the creation of the Constitution. Popular government presupposes that popular opinion should govern. But popular opinion is not always just. Majorities can be tyrannical. They can abuse minor parties and individuals. They can pass "unjust and partial" laws. The object of the Framers was to achieve through institutional channels a <u>qualitative</u> not merely a <u>quantitative</u> majority rule. Thus the institutions created by the Constitution -- the Congress, the Executive and the Judiciary -- each has an indispensable role to play in securing the great ends for which the Constitution was established in the first place: the security and happiness and liberty of the people -- all of the people, not just the majority.

And the security and happiness and liberty of the people depends upon the entire constitutional design, not just a single part of it. Civil rights and political liberties are no safer if their security is thought lodged solely or even primarily in the hands of any one single institution rather than another. The

substantive rights sought by the Constitution's Framers were understood to be best secured through orderly and nonarbitrary procedures that would be clearly defined by the entire constitutional system. As one commentator has noted, "the Framers were not disciples of John Stuart Mill, who had not yet been born, but of Montesquieu, whom they read carefully."

Sound procedure, that generation knew, is a necessary means to achieving substantive justice under the Constitution. The procedural requirements of how Congress produces legislation, for example, the influence of the executive veto, the power of Congress by an extraordinary majority to overrule that veto, were understood as essential components of any sound system of government.

Now, there are obviously some who disagree with this. The true substance of American justice, they will tell you, depends less upon adherence to procedure than upon the evolutionary moral vision of public officials. The ends, they argue, justify the means -- any means -- necessary to achieve them.

This view we must simply reject.

The greatest strength of the American Constitution is its design to replace the rule of men by the rule of law. The alleged benevolence of public officials in any branch is not to be trusted as the basis for our constitutional safety and political progress. This goes for "conservatives" and "liberals" alike. The imposition of a conservative ideology through a

disregard for the institutional arrangements of the Constitution is no more politically palatable or constitutionally legitimate than the imposition of a liberal ideology.

A true regard for the Constitution as both fundamental law and the basis of our political order recognizes and appreciates that the institutional distillation of popular opinion is fundamental to good popular government. This is not to say popular opinion always should have the final word. There are certain areas in which popular opinion simply cannot be allowed to rule. The Constitution rejects in principle and guards against in practice any simplistic notion of popular sovereignty. Liberty bereft of all restraint, the Framers knew, is not conducive to constitutional freedom. As Madison himself said, "liberty may be endangered by the abuses of liberty as well as by the abuses of power."

No, true constitutional freedom presupposes a popular commitment to the law and a respect for legal institutions. Such a public attachment is the "strongest bulwark" a government such as ours has against the erosion of public order and private rights. That is what a young Abraham Lincoln meant when he argued in 1838 that "reverence for the laws" must "become the <u>political religion</u> of the nation." He knew the danger to liberty posed by false prophets who would, by their words and deeds, seek to supplant the Constitution and the laws of the nation in their ambitious quest to refound the republic in their own image. That

is what keeps our Constitution and this republic what it has been for nearly two hundred years: "the last best hope of earth" to the cause of freedom.

As we involve ourselves in the day-to-day operations of government, we need to remember the fundamental importance of basic principles. We need especially to resist easy "solutions" that may transgress constitutional boundaries. We need to recall that in the end our rights and liberties depend not merely upon the Bill of Rights and judicial benevolence, but upon the Constitution -- the entire Constitution -- and the adherence of our people to it.

In closing, let me suggest that on this eve of the 200th anniversary of our Constitution we need to remember the Founders' belief as stated by Alexander Hamilton. Our Constitution, he said in The Federalist -- a constitution of clearly enumerated and judiciously balanced and checked limited powers -- is itself "in every rational sense, and to every useful purpose, A BILL OF RIGHTS."

Thank you.

*U.S. GOVERNMENT PRINTING OFFICE: 1986-491-510:40083